FILED
MAY 22 2013
CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY: Deputy Clerk

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RICHARD STEPHEN KVASSAY

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In re RICHARD STEPHEN KVASSAY, Debtor.	**Case No.: 2:11-bk-11698-PC** **Chapter 7 (converted March 4, 2011)** **Adversary No.**
RICHARD STEPHEN KVASSAY, Plaintiff, vs. ROBERT V. KVASSAY, TRUSTEE OF THE KVASSAY FAMILY TRUST DATED FEBRUARY 26, 1993; RUSSAKOW, GREENE & TAN, LLP. Defendants.	**COMPLAINT FOR VIOLATION OF AUTOMATIC STAY (11 U.S.C. §§ 362(a)(1) and (a)(6)) SEEKING RELIEF UNDER 11 U.S.C. §§ 362(k)(1) and 105(a)**

Plaintiff RICHARD STEPHEN KVASSAY complains and alleges as follows:

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I. PARTIES AND JURISDICTION

1. At all times alleged herein, plaintiff RICHARD STEPHEN KVASSAY ("plaintiff") was a resident of the County of Los Angeles, California and the debtor in bankruptcy case no. 2:11-bk-11698-PC.

2. Plaintiff as the debtor in bankruptcy case no. 2:11-bk-11698-PC filed for relief pursuant to Chapter 11 of the United States Bankruptcy Code on January 13, 2011. Plaintiff's Chapter 11 case was converted to Chapter 7 on March 4, 2011 (the "case").

3. At all times alleged herein, defendant ROBERT V. KVASSAY, TRUSTEE OF THE KVASSAY FAMILY TRUST DATED FEBRUARY 26, 1993 acted as trustee of the Kvassay Family Trust dated February 26, 1993 ("ROBERT"). At all times alleged herein, ROBERT, as trustee of the Kvassay Family Trust dated February 26, 1993 (the "Trust"), administered the Trust in the County of Los Angeles, California.

4. At all times alleged herein, defendant RUSSAKOW, GREENE & TAN, LLP was a law firm practicing law and conducting business in the County of Los Angeles, California ("RUSSAKOW, GREENE"). At all times alleged herein, RUSSAKOW, GREENE acted as the attorneys of record for ROBERT in his capacity as trustee of the Trust.

5. This adversary proceeding arises out of the case and is brought by plaintiff for relief pursuant to 11 U.S.C. §§ 362(k)(1) and 105(a). This court has jurisdiction over this adversary

proceeding pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. § 362. This adversary proceeding is a core proceeding under 28 U.S.C. § 157. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

II. FACTUAL ALLEGATIONS

6. On September 12, 2011, ROBERT *in his individual capacity* and represented by counsel filed a motion for relief from the automatic stay of 11 U.S.C. § 362 (the "stay") in which he sought relief from the stay to proceed against plaintiff in Los Angeles County Superior Court case BP 122477 (the "probate action"). The motion for relief from stay sought an order "[a]llowing Movant to proceed under applicable non-bankruptcy law to enforce its remedies to proceed to final judgment in the non-bankruptcy forum, *provided that the stay remains in effect with respect to enforcement of any judgment against Debtor(s) or estate property*." (*Italics* added.) According to the declaration attached to the motion for relief from stay signed by ROBERT, the "causes of action pleaded in the non-bankruptcy forum" were "[1] Specific Power to Evict Tenant from Trust Property; [2] To Determine Working Plan Has No Legal Bearing; [3] To Determine Ownership of Trust Property; and [4] Request to Offset Distributive Share." The motion for relief from stay attached the petition filed in the probate action as "Exhibit A." The Chapter 7 trustee, David A. Gill, opposed the motion for relief from stay; plaintiff did *not* oppose the motion. On October 4, 2011, ROBERT *in his individual capacity* filed a response to the Chapter 7 trustee's opposition to his motion that was supported by a declaration prepared by RUSSAKOW, GREENE.

7. According to ROBERT'S declaration in support of his motion for relief from stay one of the "causes of action pleaded in the non-bankruptcy forum" is a "Request to Offset Distributive

Share." ROBERT'S petition attached as "Exhibit A" to the motion for relief from stay alleges in paragraph 34 that:

> "The trustee also requests that Richard's distributive share be offset for attorney's fees and costs against based on his willful acts to thwart the Trustee's efforts to complete renovation, list the property for sale, and distribute the assets [the 'probate petition']."

The prayer in the probate petition requests the probate court to "offset Richard Kvassay's distributive share of the estate to be determined by [the probate] Court…."

8. On October 6, 2011, the Court considered ROBERT'S motion for relief from stay. On October 21, 2011, the Court entered the order granting relief from stay in which it ordered that ROBERT KVASSAY, TRUSTEE OF THE KVASSAY FAMILY TRUST DATED FEBRUARY 26, 1993 ("ROBERT") "may proceed in the non-bankruptcy forum to *final judgment (including any appeals)* in accordance with applicable non-bankruptcy law" and that "*movant is permitted to enforce its final judgment….*" (*Italics* added.)

9. On April 23, 2012, ROBERT, represented by RUSSAKOW, GREENE, filed a so-called "Motion to Release Bond to Petitioner" served on plaintiff as a party (on April 25, 2012) in which he sought an "Order Releasing Respondent's appeal bond to Petitioner now that the appeal has been decided in favor of Petitioner [the 'first bond motion']." The notice section of the first bond motion does *not* make a claim in any monetary amount but the section in the motion entitled "Factual

and Procedural Background" states as follows:

> "[¶] Petitioner has now incurred *18 months of carrying costs*, and anticipates that by the time of the hearing of this motion, will have incurred 20 months of carrying costs (anticipated hearing date after June 1, 2012). Therefore, Petitioner requests this Court's Order releasing the full $216,000 cash bond posted by Respondents to Petitioner, plus any accrued interest."

Section "II" of the first bond motion states:

> "There is no doubt that Respondents' cash bond was posted to ensure reimbursement for the trust estate property carrying cost that Petitioner did in fact incur while enduring Respondents' frivolous appeal. Petitioner is entitled to have the bond monies released to him in full and respectfully requests this Court's order for same."

10. On May 9, 2012, the California Court of Appeal issued its remittitur affirming a probate court order dated August 18, 2010, granting ROBERT the right to evict plaintiff and his brother Peter Emanuel Kvassay ("PETER") from real property owned by the Trust (the "remittitur"). The appeal underlying the remittitur was filed by plaintiff and PETER on September 22, 2010 (the "appeal'). On October 7, 2010, a third party posted a cash deposit of $216,000 made in lieu of an appeal bond on behalf of plaintiff and PETER that stayed enforcement of the probate court eviction

order pending the appeal (the "appeal bond"). Plaintiff and PETER resided at the real property owned by the Trust from the date the appeal bond was posted on October 7, 2010, to May 21, 2012, a period of 19½ months.

11. On May 10, 2012, plaintiff and PETER filed an opposition to the first bond motion. On May 16, 2012, RUSSAKOW, GREENE filed a declaration in reply to plaintiff's opposition to the first bond motion. On May 18, 2012, plaintiff and PETER filed evidentiary objections to the declaration filed by RUSSAKOW, GREENE in support of the first bond motion. On June 5, 2012, plaintiff's counsel filed a declaration in response to the declaration filed by RUSSAKOW, GREENE in support of the first bond motion. On June 6, 2012, the probate court held a hearing on the first bond motion and denied the motion because it was filed before the remittitur was issued.

12. On June 26, 2012, ROBERT filed a second so-called "Motion to Release Bond to Petitioner" served on plaintiff and PETER as parties (on June 28, 2012) in which he sought an "Order Releasing Respondent's appeal bond, submitted in cash in the amount of $216,000 to the Court, to the Trust Estate now that the appeal has been decided in Petitioner's favor and the remittitur has issued [the 'second bond motion']." The notice section of the second bond motion states as follows:

> "This motion is made on the ground that the stated basis of the $216,000 bond was the parties' stipulated fair rental value of $12,000 per month for Respondents' continued possession and enjoyment of the property, which was multiplied by the anticipated length of time for Respondent's appeal to be completed, 18 months (18 x $12,000 = $216,000). *More*

than 20 months have passed, and therefore, the Trust Estate is entitled to the full amount of the $216,000 bond [*italics* added]."

13. On July 27, 2012, plaintiff and PETER filed an opposition to the second bond motion. On August 6, 2012, the probate court held a hearing on the second bond motion and scheduled an evidentiary hearing on the motion for September 5, 2012 (the "evidentiary hearing"). On August 13, 2012, and August 14, 2012, plaintiff's counsel faxed and/or mailed RUSSAKOW, GREENE separate letters concerning an expedited discovery schedule to prepare for the evidentiary hearing. On August 15, 2012, plaintiff personally served ROBERT with written discovery to prepare for the evidentiary hearing, including a demand for production of documents, demand for exchange of expert witness information, and demand for inspection of real property. On August 15, 2012, plaintiff personally served ROBERT with two subpoenas requesting the appearance of ROBERT and a third party witness at the evidentiary hearing, including respective demands for production of documents at the evidentiary hearing.

14. On August 29, 2012, plaintiff made an ex parte application in the probate court for an order to reschedule the evidentiary hearing on the second bond motion so that the parties could conduct discovery to prepare for the evidentiary hearing (the "ex parte application"). On August 29, 2012, the probate court denied the ex parte application.

15. On September 4, 2012, plaintiff personally served ROBERT with his expert witness designation for the evidentiary hearing. On September 4, 2012, ROBERT served plaintiff with an objection to plaintiff's demand for documents (served by plaintiff on ROBERT to prepare for the

evidentiary hearing) and his expert witness designation.

16. On September 5, 2012, prior to the evidentiary hearing, PETER filed a Chapter 7 petition (case no. 2:12-bk-40267-PC). At the outset of the evidentiary hearing plaintiff's counsel gave the probate court and RUSSAKOW, GREENE written and oral notice of plaintiff's bankruptcy case and PETER'S Chapter 7 bankruptcy filing, including a copy of the written notice of PETER'S bankruptcy filing issued by the bankruptcy court clerk. Plaintiff's counsel's written notice of plaintiff's and PETER'S pending Chapter 7 cases given to the probate court and RUSSAKOW, GREENE prior to the evidentiary hearing on September 5, 2012, states in part as follows:

> "[¶] Respondent RICHARD S. KVASSAY hereby gives notice that on January 13, 2011, he filed a Chapter 11 bankruptcy petition in the bankruptcy court that was subsequently converted to a Chapter 7 case. RICHARD S. KVASSAY'S Chapter 7 bankruptcy case is presently pending.
>
> "[¶] Respondents PETER E. KVASSAY and RICHARD S. KVASSAY ("respondents") hereby give notice that their respective Chapter 7 bankruptcy proceedings preclude any *state court action* to enforce any pre-petition bankruptcy claim against either of them, respectively. The claims presently being asserted against respondents on an appeal bond[1] are pre-petition bankruptcy claims, as defined in 11 U.S.C. § 101(5),

[1] The appeal bond stayed enforcement of an order filed by the Probate Court on August 18, 2010.

> because the claims arose no later than October 7, 2010, the date on which the appeal bond was posted, which date was prior to the date on which each respondent filed his presently pending Chapter 7 bankruptcy proceeding. Consequently, each debtor's Chapter 7 bankruptcy proceeding precludes any *state court action* to enforce any claim against either respondent on the appeal bond. Any *state court action* to enforce any pre-petition bankruptcy claim against either respondent on the appeal bond interferes with the jurisdiction of the bankruptcy court to order a discharge of pre-petition bankruptcy claims asserted against either respondent.
>
> "[¶] Each respondent hereby gives notice that if any *state court action* is taken against him to enforce any claim against him on the appeal bond, respondent will immediately seek the protection of the bankruptcy court in precluding any *state court action* to enforce any pre-petition bankruptcy claim against him on the appeal bond [the 'bankruptcy notice']."

In response to the bankruptcy notice, RUSSAKOW, GREENE stated on the record that:

> "What we've been handed is an unconfirmed, noncertified [sic] document. We have already received relief from stay on Richard Kvassay's bankruptcy."

On September 5, 2012, the probate court conducted the evidentiary hearing based on the second bond motion.

17. On December 12, 2012, the probate court filed a minute order based on the evidentiary hearing held on September 5, 2012, that states in pertinent part:

> "[¶] Judgment is entered in the amount of $192,660.00, joint and severally against Richard S. Kvassay and Peter E. Kvassay.
>
> "[¶] As to the balance of funds, there shall be no further funds released pending the outcome of the Bankruptcy or further court order [the 'judgment']."

18. On January 8, 2013, plaintiff and PETER filed a civil action in the Los Angeles County Superior Court seeking to set aside the judgment (case BC 498669). Plaintiff's civil action to set aside the judgment is presently pending.

19. On January 16, 2013, the probate court signed and filed a document entitled "Order Re. Release Of Bond" based on the judgment and prepared by RUSSAKOW, GREENE that states in pertinent part:

> "the Court finds that the fair value for use and occupancy of the trust estate property where Peter and Richard resided is $15,000 per month,

less $4,600 per month for rents received, for 19½ month less 5% for diminished use and occupancy of the property, for a total due, jointly and several from Peter and Richard to Robert, as trustee of the Kvassay family trust, of $192,660[.] The balance of the bond is to be held for determination by the United States Bankruptcy Court where both Peter and Richard have pending cases [the 'first bond order'][.]"

20. On January 24, 2013, the probate court signed and filed a document entitled "First Amended Order Re. Release Of Bond" based on the judgment and prepared by RUSSAKOW, GREENE that states in pertinent part:

"the Court finds that the fair value for use and occupancy of the trust estate property where Peter and Richard resided is $15,000 per month, less $4,600 per month for rents received, for 19½ month less 5% for diminished use and occupancy of the property, for a total due, jointly and several from Peter and Richard to Robert, as trustee of the Kvassay family trust, of $192,660. The balance of the bond is to be held for determination by the United States Bankruptcy Court where both Peter Peter and Richard have pending cases.

"[¶] WHEREFORE, the Court Orders that the Clerk of the Los Angeles Superior Court, located at 111 N. Hill Street, Rm 119-A, Los Angeles, CA 90012, pay from the bond of Peter Kvassay and Richard Kvassay on deposit with the Court, to:

Robert Kvassay
Trustee of the Kvassay Family Trust Dated February 26, 1993
c/o Russakow, Greene & Tan, LLP
800 E. Colorado Blvd., Suite 210
Pasadena, CA 91101

IT IS SO ORDERED [the 'amended bond order']."

21. On January 29, 2013, plaintiff and PETER filed a Petition for Peremptory Writ of Prohibition and/or Writ of Mandate in the California Court Appeal to vacate the first bond order and the amended bond order (case no. B246442) (the "writ"). On February 6, 2013, plaintiff and PETER filed a notice of appeal in the California Court of Appeal to appeal the judgment, first bond order, and amended bond order (case no. B246941) (the "appeal"). On February 8, 2013, the California Court of Appeal denied the writ. The appeal is presently pending.

22. Plaintiff is informed and believes and based thereon alleges that on January 29, 2013, ROBERT and RUSSAKOW, GREENE took possession of $192,660.00 of the $216,000 appeal bond from the clerk of the Los Angeles County Superior Court (the "clerk") pursuant to the amended bond order.

23. On May 9, 2013, the bankruptcy court ordered potential property of the bankruptcy estate, including the appeal bond *and* plaintiff's interest in the probate action, abandoned pursuant to 11 U.S.C. § 554.

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III. CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Relief for Willful Violation of Automatic Stay pursuant to 11 U.S.C. § 362(k)(1) Against ROBERT and RUSSAKOW, GREENE)

24. Plaintiff incorporates and re-alleges paragraphs 1 through 23 as if fully alleged herein.

25. Pursuant to 11 U.S.C. § 362(a), a petition filed under section 301, 302, or 303 "operates as a stay, applicable to all entities, of—

> (1) the commencement or continuation … of a judicial … proceeding against the debtor … to recover a *claim against the debtor that arose before the commencement of the case under this title* …
>
> (6) any act to collect, assess, or recover a *claim against the debtor that arose before commencement of the case under this title* [*italics* added]."

The appeal bond to stay enforcement of plaintiff's eviction from real property owned by the Trust was posted on October 7, 2010, more than three months before plaintiff filed his bankruptcy petition on January 13, 2011. Plaintiff resided at the real property owned by the Trust from the date the appeal bond was posted on October 7, 2010, to May 21, 2012, a period of 19½ months. The judgment ROBERT obtained against plaintiff on December 12, 2012, is based on the purported value of plaintiff's use and occupancy of the real property owned by the Trust that accrued 19½ months before May 21, 2012 (i.e., on October 7, 2010).

26. The order granting relief from stay entered by the court on October 21, 2011, provided that ROBERT could proceed to "final judgment" in case BP 122477 as to the "causes of action pleaded in the non-bankruptcy forum." As of October 21, 2011, the "causes of action pleaded in the non-bankruptcy forum" did *not* include a claim for a judgment against plaintiff to enforce against the appeal bond. As of October 21, 2011, the claim underlying the judgment ROBERT obtained against plaintiff on December 12, 2012, was *not* pending in the state court. The order granting relief from stay does *not* provide that ROBERT may pursue a judgment against plaintiff that can be enforced against the appeal bond.

27. ROBERT obtained the judgment against plaintiff on December 12, 2012. ROBERT and RUSSAKOW, GREENE enforced the judgment against plaintiff against the appeal bond by obtaining the amended bond order on January 24, 2013, and executing the order on January 29, 2013, and taking possession of $192,660.00 of the appeal bond. Plaintiff filed a notice of appeal of the judgment, the bond order, and amended bond order on February 6, 2013. The appeal is pending.

28. ROBERT'S request in the probate petition that plaintiff's so-called "distributive share" be "offset" is a request that any prospective judgment against plaintiff in the probate action be enforced against plaintiff's interest in the Trust. Plaintiff's interest in the Trust is listed in Schedule B of plaintiff's bankruptcy petition. On May 9, 2013, the bankruptcy estate abandoned any interest it had in the probate action pursuant to 11 U.S.C. § 554. Any prospective judgment against plaintiff in the probate action will be subject to appeal pursuant to California Code of Civil Procedure

§ 904.1(a)(1) *and* California Probate Code § 1304(a).

29. ROBERT and RUSSAKOW, GREENE willfully violated the automatic stay provisions of 11 U.S.C. §§ 362(a)(1) and (a)(6) by:

(1) filing the state court motions to obtain a judgment against plaintiff to enforce against the appeal bond without obtaining relief from the stay to file the motions;

(2) obtaining the judgment against plaintiff to enforce against the appeal bond without obtaining relief from the stay to pursue the judgment against plaintiff;

(3) obtaining the first bond order and amended bond order without obtaining relief from the stay to enforce the judgment against plaintiff; and

(4) executing the amended bond order and taking possession of of $192,660.00 of the appeal bond without obtaining relief from the stay to enforce the judgment against plaintiff.

Alternatively, ROBERT and RUSSAKOW, GREENE willfully violated the automatic stay provisions of 11 U.S.C. §§ 362(a)(1) and (a)(6) and the order granting relief from stay by enforcing a judgment against plaintiff that is *not* final. Presently, ROBERT is willfully violating the automatic stay provisions of 11 U.S.C. §§ 362(a)(1) and (a)(6) and order granting relief from stay by asking the probate court to enforce a prospective judgment against plaintiff.

30. As a direct and proximate result of ROBERT'S and RUSSAKOW, GREENE'S willful violations of the automatic stay provisions of 11 U.S.C. §§ 362(a)(1) and (a)(6), plaintiff has suffered actual damages, including attorney fees and costs incurred, to date, in excess of $70,000.00.

SECOND CAUSE OF ACTION

(Relief for Contempt for Willful Violation of Automatic Stay pursuant to 11 U.S.C. § 105(a) Against ROBERT and RUSSAKOW, GREENE)

31. Plaintiff incorporates and re-alleges paragraphs 1 through 30 as if fully alleged herein.

32. Pursuant to 11 U.S.C. § 105(a),

> "The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

As alleged above in paragraph 29, ROBERT and RUSSAKOW, GREENE willfully violated the automatic stay provisions of 11 U.S.C. §§ 362(a)(1) and (a)(6). ROBERT'S and RUSSAKOW, GREENE'S willful violations of the automatic stay are in contempt of 11 U.S.C. §§ 362(a)(1) and (a)(6).

33. As a direct and proximate result of ROBERT'S and RUSSAKOW, GREENE'S willful violations of the automatic stay in contempt of 11 U.S.C. §§ 362(a)(1) and (a)(6), plaintiff has suffered compensatory damages, including attorney fees and costs incurred, to date, in excess of $70,000.00.

WHEREFORE, plaintiff prays for a judgment against ROBERT and RUSSAKOW, GREENE, jointly and severally, that:

(1) finds that ROBERT V. KVASSAY, TRUSTEE OF THE KVASSAY FAMILY TRUST DATED FEBRUARY 26, 1993 ("ROBERT"), and the law firm of RUSSAKOW, GREENE & TAN LLP ("RUSSAKOW, GREENE") willfully violated the automatic stay provisions of 11 U.S.C. §§ 362 (a)(1) and (a)(6) (hereafter referred to singularly as the "stay");

(2) finds ROBERT and RUSSAKOW, GREENE in contempt for willfully violating the stay;

(3) nullifies and voids all judicial actions taken in violation of the stay, including all state court judicial proceedings initiated, all state court judgments and orders entered, and all state court judgments enforced and executed in violation of the stay;

(4) orders ROBERT and RUSSAKOW, GREENE to turnover $192,660.00 of the appeal bond they misappropriated from the clerk of the Los Angeles County Superior Court on January 29, 2013, with pre- and post-judgment interest thereon calculated from January 29, 2013, pursuant to 28 U.S.C. § 1961;

(5) orders ROBERT'S and RUSSAKOW, GREENE'S compliance with the stay, including ROBERT'S and RUSSAKOW, GREENE'S compliance with the Court's order granting relief from the stay entered October 21, 2011;

(6) orders ROBERT and RUSSAKOW, GREEN to obtain further relief from the stay to enforce any state court judgment against plaintiff;

(7) awards plaintiff actual damages, including costs and attorneys' fees, pursuant to 11 U.S.C. § 362(k)(1), in an amount according to proof;

(8) awards plaintiff compensatory damages, including costs and attorneys' fees, pursuant to 11 U.S.C. § 105(a), in an amount according to proof; and

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(9) orders such other and further relief as the Court may deem just and proper.

DATED: May 22, 2013

TROY A. STEWART, Attorney for
Plaintiff, RICHARD STEPHEN
KVASSAY

RECEIVED
MAY 22 2013
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CENTRAL DISTRICT OF CALIFORNIA
BY: Deputy Clerk

FORM B104 (08/07) 2007 USBC, Central District of California

ADVERSARY PROCEEDING COVER SHEET (Instructions on Page 2)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS RICHARD STEPHEN KVASSAY	**DEFENDANTS** Robert V. Kvassay, Trustee of the Kvassay Family Trust dated February 26, 1993; Russakow, Greene & Tan, LLP
ATTORNEYS (Firm Name, Address, and Telephone No.) TROY A. STEWART (Law Offices) P.O. Box 390 Glendale, California 91209-0390 (626) 616-9474	**ATTORNEYS** (If Known)
PARTY (Check One Box Only) ☑ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☑ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)
Complaint for Violation of Automatic Stay (11 U.S.C. sections 362(a)(1) and (a)(6)) Seeking Relief under 11 U.S.C. sections 362(k)(1) and 105(a)

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property

☐ 11-Recovery of money/property - §542 turnover of property
☐ 12-Recovery of money/property - §547 preference
☐ 13-Recovery of money/property - §548 fraudulent transfer
[1] 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien

☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property

☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge

☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation

☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability

☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)

☐ 61-Dischargeability - §523(a)(5), domestic support
☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
☐ 63-Dischargeability - §523(a)(8), student loan
☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief

☐ 71-Injunctive relief – imposition of stay
☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest

☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment

☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action

☐ 01-Determination of removed claim or cause

Other

☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☐ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	Demand $ 70,000.00

Other Relief Sought

(1) finding of willful violation of 11 U.S.C. sections 362(a)(1) and (a)(6); (2) contempt for violation of automatic stay; (3) nullification of state court proceedings, judgment, orders and enforcement and execution of judgment in violation of automatic stay; (4) turnover of money misappropriated through violation of automatic stay; (5) order to comply with automatic stay; (6) order to obtain relief from automatic stay to enforce state court judgment; (7) award of actual damages, including attorney fees and costs, pursuant to 11 U.S.C. section 362(k)(1); and (8) award of compensatory damages, including attorney fees and costs, pursuant to 11 U.S.C. section 105(a)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR RICHARD STEPHEN KVASSAY		BANKRUPTCY CASE NO. 2:11-bk-11698
DISTRICT IN WHICH CASE IS PENDING Central District	DIVISIONAL OFFICE Los Angeles	NAME OF JUDGE Peter H. Carroll
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 5/22/13	PRINT NAME OF ATTORNEY (OR PLAINTIFF) TROY A. STEWART	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendents.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
TROY A. STEWART, SBN 135764 P.O. Box 390 Glendale, California 91209-0390 (626) 616-9474 stewart1985@lawnet.ucla.edu *Attorney for Plaintiff*	RECEIVED MAY 22 2013 CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY: Deputy Clerk

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re: RICHARD STEPHEN KVASSAY Debtor(s).	CASE NO.: 2:11-bk-11698-PC CHAPTER: 7 ADVERSARY NUMBER:
RICHARD STEPHEN KVASSAY, Plaintiff(s) Versus ROBERT V. KVASSAY, TRUSTEE OF THE KVASSAY FAMILY TRUST DATED FEBRUARY 26, 1993; RUSSAKOW, GREENE & TAN, LLP. Defendant(s)	**SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]**

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend against the Complaint, you must file with the court a written pleading in response to the Complaint. You must also serve a copy of your written response on the party shown in the upper left-hand corner of this page. The deadline to file and serve a written response is ____________. If you do not timely file and serve the response, the court may enter a judgment by default against you for the relief demanded in the Complaint.

A status conference in the adversary proceeding commenced by the Complaint has been set for:

Hearing Date: ____________ **Time:** ________ **Courtroom:** ________	**Place:** ☐ 255 East Temple Street, Los Angeles, CA 90012 ☐ 3420 Twelfth Street, Riverside, CA 92501 ☐ 411 West Fourth Street, Santa Ana, CA 92701 ☐ 1415 State Street, Santa Barbara, CA 93101 ☐ 21041 Burbank Boulevard, Woodland Hills, CA 91367

You must comply with LBR 7016-1, which requires you to file a joint status report and to appear at a status conference. All parties must read and comply with the rule, even if you are representing yourself. You must cooperate with the other parties in the case and file a joint status report with the court and serve it on the appropriate parties at least 14 days before a status conference. A court-approved joint status report form is available on the court's website (LBR form F 7016-1.STATUS.REPORT) with an attachment for additional parties if necessary (LBR form F 7016-1.STATUS.REPORT.ATTACH). If the other parties do not cooperate in filing a joint status report, you still must file with the court a unilateral status report and the accompanying required declaration instead of a joint status report 7 days before the status conference. **The court may fine you or impose other sanctions if you do not file a status report. The court may also fine you or impose other sanctions if you fail to appear at a status conference.**

KATHLEEN J. CAMPBELL
CLERK OF COURT

Date of Issuance of Summons and Notice of Status Conference in Adversary Proceeding: ____________

By: ____________________________________
Deputy Clerk